

Second Regular Session 113th General Assembly (2004)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2003 Regular Session of the General Assembly.

HOUSE ENROLLED ACT No. 1017

AN ACT to amend the Indiana Code concerning environmental law.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 13-23-12-7, AS AMENDED BY P.L.14-2001, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 7. (a) **Except as provided in subsection (e)**, an owner of an underground storage tank who:

- (1) is required to pay the fee under section 1 of this chapter; and
- (2) fails to pay the fee when due as established under section 2 of this chapter;

shall be assessed a penalty of not more than two thousand dollars (\$2,000) per underground storage tank for each year that passes after the fee becomes due and before the fee is paid.

(b) Except as provided in subsection (c), each penalty assessed under this section and collected from the owner of an underground petroleum storage tank shall be deposited as follows:

- (1) Fifty percent (50%) shall be deposited in the petroleum trust fund.
- (2) Fifty percent (50%) shall be deposited in the excess liability trust fund.

(c) Penalties assessed under this section and collected from owners of underground storage tanks used to contain regulated substances other than petroleum shall be deposited in the hazardous substances response trust fund.

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(d) The penalty set forth in this section is in addition to the penalties that may be imposed under the following:

- (1) IC 13-23-14-2.
- (2) IC 13-23-14-3.
- (3) IC 13-23-14-4.
- (4) IC 13-30-4.
- (5) IC 13-30-5.
- (6) IC 13-30-6.
- (7) IC 13-30-8.

(e) If an owner described in subsection (a) registered an underground storage tank before January 1, 2004, the penalty established in subsection (a) may not be assessed against the owner for any failure to pay an annual registration fee under section 1 of this chapter:

- (1) in connection with the underground storage tank; and
- (2) that was due before January 1, 2004.

SECTION 2. IC 13-11-2-38.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 38.3. "Concentrated animal feeding operation" or "CAFO", for purposes of IC 13-18-10 and IC 13-18-20, has the meaning set forth in 40 CFR 122.23.**

SECTION 3. IC 13-18-10-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 1. (a) A person may not start construction of a confined feeding operation without obtaining the prior approval of the department.**

(b) Obtaining an NPDES permit for a CAFO meets the requirements of subsection (a) and 327 IAC 16 to obtain an approval.

SECTION 4. IC 13-18-20-11.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 11.5. (a) In addition to the fee under section 12 of this chapter, when a person files a notice of intent with the department concerning:**

- (1) an initial; or
- (2) the renewal of a;

general NPDES permit for a CAFO, the person must remit a permit fee of one hundred dollars (\$100) to the department.

(b) In addition to the fee under section 12 of this chapter, when a person files an application with the department concerning:

- (1) an initial; or
- (2) the renewal of an;

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individual NPDES permit for a CAFO, the person must remit a permit fee of two hundred fifty dollars (\$250) to the department.

(c) If a person is subject to a fee for a CAFO under this section, no other fee under this chapter applies to the CAFO other than the fee under section 12 of this chapter.

SECTION 5. IC 13-11-2-144.8 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 144.8. "Onsite sewage system", for purposes of IC 13-18-17, means all equipment and devices necessary for proper:**

- (1) onsite:
 - (A) conduction;
 - (B) collection;
 - (C) storage; and
 - (D) treatment; and
- (2) absorption in soil;

of sewage from a residence or a commercial facility.

SECTION 6. IC 13-18-17-5, AS AMENDED BY P.L.168-1999, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 5. (a) The ~~water pollution control~~ board shall adopt rules under IC 4-22-2 establishing groundwater quality standards that include numeric and narrative criteria, a groundwater classification plan, and a method of determining where the groundwater quality standards must apply. The standards established under this subsection shall be used for the following purposes:**

- (1) To establish minimum compliance levels for groundwater quality monitoring at regulated facilities.
- (2) To ban the discharge of effluents into potable groundwater.
- (3) To establish health protection goals for untreated water in water supply wells.
- (4) To establish concentration limits for contaminants in ambient groundwater.

(b) Except as provided in subsection (c) and subject to subsection (d), the following agencies shall adopt rules under IC 4-22-2 to apply the groundwater quality standards established under this section to activities regulated by the agencies:

- (1) The department.
- (2) The department of natural resources.
- (3) The state department of health.
- (4) The office of the state chemist.
- (5) The office of the state fire marshal.

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(c) The executive board of the state department of health may not adopt rules to apply the nitrate and nitrite numeric criteria included in groundwater quality standards established in rules adopted by the board under subsection (a) to onsite sewage systems.

(d) Any rule adopted by the executive board of the state department of health is void to the extent that the rule applies the nitrate and nitrite numeric criteria included in groundwater quality standards established in rules adopted by the Indiana water pollution control board under subsection (a) to onsite sewage systems.

SECTION 7. [EFFECTIVE UPON PASSAGE] (a) For purposes of this SECTION, "onsite sewage system" has the meaning set forth in IC 13-11-2-144.8, as added by this act.

(b) The department of environmental management and the state department of health shall jointly:

(1) prepare a report that includes the following:

(A) a review of literature and recent research to document:

(i) the effect of nitrates and nitrites in drinking water on public health;

(ii) the effect of onsite sewage systems on levels of nitrates and nitrites in groundwater;

(iii) the movement of nitrates and nitrites in soils; and

(iv) the onsite sewage system technologies available to achieve compliance with the nitrate and nitrite numeric criteria included in the groundwater quality standards under 327 IAC 2-11, as in effect January 1, 2004; and

(B) the impact if newly installed onsite sewage systems were required to comply with the nitrate and nitrite numeric criteria included in the groundwater quality standards under 327 IAC 2-11, as in effect January 1, 2004, including:

(i) the number of residences and commercial facilities affected; and

(ii) the cost of implementation; and

(2) submit the report referred to in subdivision (a) before January 1, 2009, to:

(A) the governor;

(B) the executive director of the legislative services agency in an electronic format under IC 5-14-6; and

(C) the environmental quality service council.

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(c) This SECTION expires January 1, 2009.

SECTION 8. P.L.231-2003, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: SECTION 6. (a) **Except as provided in subsection (b),** before July 1, ~~2005~~, **2006**, the:

- (1) air pollution control board, water pollution control board, or solid waste management board may not adopt a new rule; and
- (2) department of environmental management may not adopt a new policy;

if the new rule or policy would require any industry described in subsection (b) that experienced at least a ten percent (10%) job loss or a ten percent (10%) decline in production during calendar years 2001, ~~and 2002, and 2003~~ to comply with a standard of conduct that exceeds the standard established in a related federal regulation or regulatory policy.

(b) Subsection (a) does not apply to the adoption of a new rule by the air pollution control board that is necessary to attain or maintain the primary or secondary national ambient air quality standards as part of a state implementation plan submitted to the United States Environmental Protection Agency under Section 110 of the federal Clean Air Act (42 U.S.C. 7410a).

(c) The following are the industries referred to in subsection (a) functioning under the following primary Standard Industrial Classification (SIC) codes:

- (1) Blast furnaces and steel mills (3312).
- (2) Gray and ductile iron foundries (3321).
- (3) Malleable iron foundries (3322).
- (4) Steel investment foundries (3324).
- (5) Steel foundries (3325).
- (6) Aluminum foundries (3365).
- (7) Copper foundries (3366).
- (8) Nonferrous foundries (3369).

~~(c)~~ **(d) This SECTION expires July 1, ~~2005~~, 2006.**

SECTION 9. An emergency is declared for this act.

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Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Approved: _____

Governor of the State of Indiana

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